



# UNITED STATES PATENT AND TRADEMARK OFFICE

UNITED STATES DEPARTMENT OF COMMERCE  
United States Patent and Trademark Office  
Address: COMMISSIONER FOR PATENTS  
P.O. Box 1450  
Alexandria, Virginia 22313-1450  
www.uspto.gov

APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/757,898	01/15/2004	Robert H. Walker	WAL19 P-300	4736

277 7590 10/18/2007  
PRICE HENEVELD COOPER DEWITT & LITTON, LLP  
695 KENMOOR, S.E.  
P O BOX 2567  
GRAND RAPIDS, MI 49501

EXAMINER
----------

WUJCIAK, ALFRED J

ART UNIT	PAPER NUMBER
----------	--------------

3632

MAIL DATE	DELIVERY MODE
-----------	---------------

10/18/2007

PAPER

**Please find below and/or attached an Office communication concerning this application or proceeding.**

The time period for reply, if any, is set in the attached communication.

<b>Office Action Summary</b>	<b>Application No.</b> 10/757,898	<b>Applicant(s)</b> WALKER, ROBERT H.	
	<b>Examiner</b> Alfred Joseph Wujciak III	<b>Art Unit</b> 3632	

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

#### Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

#### Status

- 1) ☒ Responsive to communication(s) filed on 31 July 2007.
- 2a) ☒ This action is **FINAL**. 2b) ☐ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

#### Disposition of Claims

- 4) ☒ Claim(s) 1-6 is/are pending in the application.
- 4a) Of the above claim(s) 7 and 8 is/are withdrawn from consideration.
- 5) ☐ Claim(s) \_\_\_\_\_ is/are allowed.
- 6) ☒ Claim(s) 1-6 is/are rejected.
- 7) ☐ Claim(s) \_\_\_\_\_ is/are objected to.
- 8) ☐ Claim(s) \_\_\_\_\_ are subject to restriction and/or election requirement.

#### Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☒ The drawing(s) filed on 15 January 2006 is/are: a) ☒ accepted or b) ☐ objected to by the Examiner.  
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).  
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

#### Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some \* c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
  2. ☐ Certified copies of the priority documents have been received in Application No. \_\_\_\_\_.
  3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

\* See the attached detailed Office action for a list of the certified copies not received.

#### Attachment(s)

- |  |   |
|--|---|
| 1) <input type="checkbox"/> Notice of References Cited (PTO-892)   | 4) <input type="checkbox"/> Interview Summary (PTO-413)<br>Paper No(s)/Mail Date. _____ |
| 2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948)                                   | 5) <input type="checkbox"/> Notice of Informal Patent Application (PTO-152)             |
| 3) <input type="checkbox"/> Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08)<br>Paper No(s)/Mail Date _____ | 6) <input type="checkbox"/> Other: _____  |

Art Unit: 3632

This is the final Office Action for the serial number 10/757,898, FACIA GUARD BRACKET, filed on 1/15/04.

***Claim Rejections - 35 USC § 103***

The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

Claims 1-6 are rejected under 35 U.S.C. 103(a) as being unpatentable over US Patent # 6,336,623 to McCarthy.

McCarthy teaches a bracket (12) comprising a first generally U-shaped recess (figure 6 shows u-shaped recess between element 16 and 12), a fastening member (64) and a second generally U-shaped recess (18) for receiving a guard board. The first generally U-shaped recess having two substantially parallel sides which are directly opposite each other. The bracket includes an extension (the other 18. located near top of the bracket 12) having one or more generally U-shaped recess. The fastening member is a bolt (column 2, line 47). Furthermore, McCarthy teaches plurality of brackets (see figures 1 and 6) secured along the fascia board of a roof.

McCarthy teaches the first general U-shaped recess mounted on fascia board but fails to teach the first general U-shaped recess receives the fascia board. It would have been obvious for one of ordinary skill in the art at the time the invention was made to have placed element 16 underneath the fascia board to provide security for the bracket to maintain connected to the fascia board.

***Response to Arguments***

Applicant's arguments filed 7/31/07 have been fully considered but they are not persuasive.

The applicant argues the examiner's modification with the first plate (16) being placed under the fascia board will cause the post 12 to not be spaced from the building side surface. The examiner disagrees with the applicant because changing the location of the first plate to underneath the fascia board would not interfere with the post, the post will still be spaced from the building side surface. Furthermore, claims 1-6 in applicant's invention don't require the post to be spaced away from the building side surface.

***Conclusion***

**THIS ACTION IS MADE FINAL.** Applicant is reminded of the extension of time policy as set forth in 37 CFR 1.136(a).

A shortened statutory period for reply to this final action is set to expire THREE MONTHS from the mailing date of this action. In the event a first reply is filed within TWO MONTHS of the mailing date of this final action and the advisory action is not mailed until after the end of the THREE-MONTH shortened statutory period, then the shortened statutory period will expire on the date the advisory action is mailed, and any extension fee pursuant to 37 CFR 1.136(a) will be calculated from the mailing date of the advisory action. In no event,

Art Unit: 3632

however, will the statutory period for reply expire later than SIX MONTHS from the mailing date of this final action.


Any inquiry concerning this communication or earlier communications from the examiner should be directed to Alfred Joseph Wujciak III whose telephone number is (571) 272-6827. The examiner can normally be reached on 8am-4:30pm.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Carl Friedman can be reached on (571) 272-6815. The fax phone number for the organization where this application or proceeding is assigned is 703-872-9306.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free).

Alfred Joseph Wujciak III  
Primary Examiner  
Art Unit 3632

10/8/07

  
A. JOSEPH WUJCIAK III  
PRIMARY EXAMINER  
TECHNOLOGY CENTER

Applicant : Walker  
Appln. No. : 10/757,898  
Page : 2

---

This listing of claims will replace all prior versions and listings of claims in the application:

1. (Currently Amended) A facia guard bracket comprising:

a first generally U-shaped recess, permanently fixed in its general U-shape, for receiving only the facia board of a roof;

\_\_\_\_\_ a fastening member for securing the first generally U-shaped recess to the facia board, so that the facia board bears the entire weight of the facia guard bracket when the fastening member secures the facia board against one wall of the U-shaped recess; and

\_\_\_\_\_ a second generally U-shaped recess for receiving a guard board; and

said first generally U-shaped recess having two substantially parallel sides which are directly opposite each other.

2. (Original) The facia guard bracket of claim 1, wherein the fastening member is a bolt.

3. (Original) The facia guard bracket of claim 1, wherein an extension is added to the facia guard bracket, said extension having one or more generally U-shaped recesses for receiving additional guard boards.

4. (Currently Amended) A fall protection device comprising:

a plurality of facia guard brackets secured along the facia board of a roof ;

said facia guard brackets having generally U-shaped recesses, permanently fixed in their general U-shape, such that the facia board bears the entire weight of the facia guard brackets for receiving said facia board;

said U-shaped recesses having two substantially parallel sides which are directly opposite each other; and

Applicant : Walker  
Appln. No. : 10/757,898  
Page : 3

---

said fascia guard brackets having second generally U-shaped recesses for receiving a guard board.

5. (Original) The fall protection device of claim 4, wherein each fascia guard bracket is secured to the fascia board with a bolt.

6. (Original) The fall protection device of claim 4, wherein an extension is added to the fascia guard bracket, said extension having one or more generally U-shaped recesses for receiving additional guard boards.

7. (Withdrawn) A method for providing a fall protection device comprising:

attaching a plurality of fascia guard brackets, each having a generally U-shaped recess for receiving the fascia board of a roof between trusses and a second generally U-shaped recess for receiving a guard board; and

placing said guard board in said second generally U-shaped recesses of the fascia guard brackets.

8. (Withdrawn) The method according to claim 7, wherein the fall protection device is further assembled by insertion of extensions into the fascia guard brackets, each extension having additional generally U-shaped recesses that receive additional guard boards.